



## ESTATE TAX REFORM —BE CAREFUL WHAT YOU WISH FOR—



*“Aphrodite spoke...blandishing persuasion which steals the mind of the wise.”*

— Homer, *The Iliad*, c. 700 BC

*The following is an abbreviated version of my article that recently appeared in Barron's magazine.*

Politicians have been promising to eliminate the estate tax, arguing that no family should have to visit the undertaker and the tax collector on the same day.

The federal estate tax is like a great white shark: widely feared but rarely encountered. The shark bites only those estates exceeding \$5.49 million, or almost \$11 million for married couples. Smaller estates escape those jaws, yet still need to worry about other predators in the sea.

If you are fortunate enough to have amassed a taxable estate, you probably have a team of coaches teaching you to swim faster than the sharks that collect this tax. Your coaches include your estate tax attorney, accountant, and financial advisor. With their help, you can creatively prepare a plan to defeat the tax. Among the available tools are the irrevocable grantor trust, the grantor retained annuity trust, gifting strategies, and prudent uses of life insurance.

So let's put the threat of the federal estate tax in perspective. In reality, the horde of dangers includes (former) in-laws, outlaws, and tax laws. All of those are culprits when your pot of gold shrinks to a shilling. Focusing on the federal estate tax alone is almost always an expensive mistake.

Perhaps half of all marriages end in divorce. Sometime after your demise, your son-in-law may fall for the charms of a Sofia Vergara look-alike, a scenario more common than you might imagine. Unless you've installed artful defenses in your estate plan to protect your daughter, he'll be burning rubber out of the driveway in a new Maserati, thanks to a generous cut of your daughter's inheritance.

Don't think that your daughter is completely protected by a prenuptial agreement. A prenuptial

agreement is a contract, vulnerable to interpretation by some random judge in some random courtroom. Contracts can be amended, voided, ignored, or even revoked by a love-struck son or daughter in a moment of passion. (See the Homer quote, above.) A prenup is hardly a fortress to protect family wealth.

While fretting over the federal estate tax, you may be ignoring far more pressing issues.

Will your children and grandchildren exercise prudence in managing their riches? Too often, they are vulnerable to smooth-talking financial scammers like Bernie Madoff. More commonly, their money dribbles away over time because of fiscal mismanagement.

Economists claim that \$30 trillion of wealth will be passed to the younger generations in the next few decades. The federal estate tax, as it currently exists, can capture only a tiny fraction of that, just \$20 billion annually. That's a mere tea cup scooped from the floodwaters of wealth that is flowing from one generation to the next.

So yes, you should love the estate tax. Like a great white shark, its bite is rare and easily avoided by taking action. Are you absolutely certain the same can be said about its replacement?



*Better to avoid the bite.*